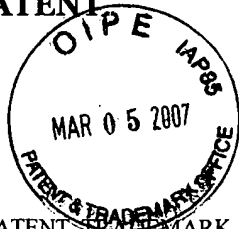


PATENT



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ATTY. DOCKET: TOPP-P7.1-US

*AP*  
*IFW*

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICATION NO. : 10/651,583  
IN RE APPLICANT : TOPP, Daniel P.  
TITLE : APPARATUS FOR ERADICATING PESTS  
FILING DATE : August 29, 2003  
CONFIRMATION NO. : 8842  
EXAMINER : David J. Parsley  
ART UNIT : 3643  
CUSTOMER NO. : 021616

To: Mail Stop APPEAL BRIEF – PATENTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL LETTER ACCOMPANYING AMENDED APPEAL  
BRIEF TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Dear Sir:

Enclosed herewith is Appellant's Amended Brief Pursuant to 37 C.F.R. §§ 1.192 and  
41.37 (34 pgs.). The Appellant's Amended Brief is being submitted in response to a Notification

of Non-Compliant Appeal Brief dated September 26, 2006. The Notification of Non-Compliant Appeal Brief set a shortened statutory for response that expired on October 26, 2006.

Accordingly, a Petition for Extension of Time, and the appropriate extension fee, to extend the period for response through today's date are enclosed.

The Notification pointed out several informalities in Appellant's Brief mailed September 11, 2006. Appellant believes it has addressed all informalities pointed out in the Notification.

**[XX]** Small entity status of this application pursuant to 37 C.F.R. §1.27 has been established.

**[XX]** Applicant petitions for an Extension of Time under 37 C.F.R. §1.136 (fees: 37 C.F.R. §1.17(a) - (d) for the total number of months checked below:

<u>Extension Months(s)</u>	<u>Fee For Other Than Small Entity</u>	<u>Fee For Small Entity</u>
[ ] 1 Month	\$120.00	\$ 60.00
[ ] 2 Months	\$450.00	\$225.00
[ ] 3 Months	\$1,020.00	\$510.00
<b>[XX] 4 Months</b>	<b>\$1,590.00</b>	<b>\$795.00</b>
[ ] 5 Months	\$2,160.00	\$1,080.00

**[XX]** Claims Appendix – Listing of Claims (7 pgs.) are enclosed.

**[XX]** Evidence Appendix cover page (1 pg.) – Copy of Declaration Under 37 CFR §1.132 of Jeffrey S. Helmes (5 pgs.) are enclosed.

**[XX]** Related Proceedings Appendix (1 pg.) is enclosed.

**[XX]** Other documents that are enclosed:

**[XX]** Fee Transmittal for FY2006 – Form PTO/SB/17 (1 pg.).

☒ [XX] A postage-prepaid, self-addressed postcard for the PTO to acknowledge receipt of this communication.

☒ [XX] Payment is made by:

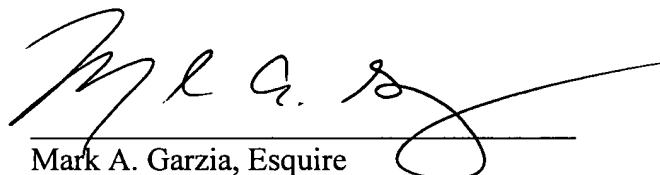
☐ [ ] Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. Two copies of this transmittal are attached.

☐ [ ] Check No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.00 to cover the extension fee is enclosed.

☒ [XX] Credit Card Payment Form PTO-2038 authorizing a charge in the amount of \$795.00 (fee for 4 month Extension of Time) is enclosed to cover the fee(s) due.

Respectfully submitted,

26 FEB 2007  
Date

  
Mark A. Garzia, Esquire  
Registration No. 35,517

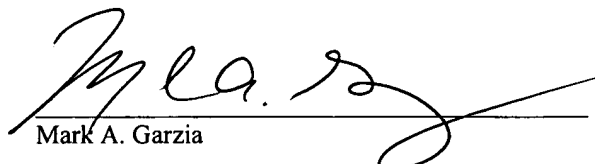
Law Offices of Mark A. Garzia, P.C.  
2058 Chichester Ave.  
Boothwyn, PA 19061  
Telephone: (610) 485-9400  
Facsimile: (610) 485-7660

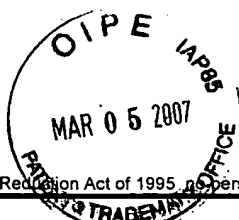
\* \* \* \* \*

**CERTIFICATE OF MAILING**

I hereby certify that this communication, along with any paper or fee indicated as being enclosed, are being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Mail Stop APPEAL BRIEF – PATENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

26 FEBRUARY 2007  
Date

  
Mark A. Garzia



PTO/SB/17 (01-06)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL**  
**For FY 2006**☒ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 795.00**Complete if Known**

Application Number	10/651,583
Filing Date	August 29, 2003
First Named Inventor	TOPP, Daniel P.
Examiner Name	PARSLEY, David J.
Art Unit	3643
Attorney Docket No.	TOPP-P7.1-US

**METHOD OF PAYMENT** (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☐ Deposit Account Deposit Account Number: \_\_\_\_\_ Deposit Account Name: \_\_\_\_\_

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION** (All the fees below are due upon filing or may be subject to a surcharge.)**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
21 - 20 or HP = 0 x = 0		
HP = highest number of total claims paid for, if greater than 20.		
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
3 - 3 or HP = 0 x = 0		
HP = highest number of independent claims paid for, if greater than 3.		
		<b>Multiple Dependent Claims</b>
		<b>Fee (\$)</b>
		<b>Fee Paid (\$)</b>

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	_____

- 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Extension for Response Within Fourth Month

**Fees Paid (\$)**

795.00

**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent) 35,517	Telephone 610-485-9400
Name (Print/Type)	Mark A. Garzia		Date February 26, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.